

**Title 35-A: PUBLIC UTILITIES HEADING:
PL 1987, c. 141, Pt. A, §6 (new)**

**Chapter 3: RATES OF PUBLIC UTILITIES
HEADING: PL 1987, c. 141, Pt. A, §6 (new)**

Table of Contents

Part 1. PUBLIC UTILITIES COMMISSION	
Section 301. SAFE FACILITIES; JUST AND REASONABLE RATES.....	3
Section 302. LIMITATIONS ON RATES.....	3
Section 302-A. RULES GOVERNING POLITICAL ACTIVITIES, PROMOTIONAL ADVERTISING AND INSTITUTIONAL ADVERTISING.....	4
Section 303. VALUATION OF PROPERTY FOR FIXING RATES.....	4
Section 304. FILING OF SCHEDULES OF RATES, TERMS AND CONDITIONS.....	4
Section 305. PUBLIC INSPECTION OF SCHEDULES.....	4
Section 306. SCHEDULE OF JOINT RATES.....	5
Section 307. CHANGES IN SCHEDULES; NOTICE.....	5
Section 307-A. EXEMPTION FOR CERTAIN TELEPHONE UTILITIES (REPEALED).....	5
Section 308. FILING OF NEW SCHEDULES.....	6
Section 309. ADHERENCE TO RATE SCHEDULES; CHANGE IN FORM OF SCHEDULES.....	6
Section 310. INVESTIGATION OF PROPOSED CHANGES IN RATES OF PUBLIC UTILITIES; SUSPENSION PENDING INVESTIGATION.....	6
Section 311. COMPREHENSIVE CLASSIFICATION OF SERVICE.....	7
Section 312. TEMPORARY RATES DURING RATE PROCEEDING.....	7
Section 313. SUBMETERING PERMITTED IN CAMPGROUNDS.....	8
Section 314. PRIVATE LINE EXTENSIONS.....	9
Section 315. TRANSMISSION AND DISTRIBUTION UTILITY LINE EXTENSION CONSTRUCTION.....	10

Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES HEADING:
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§301. SAFE FACILITIES; JUST AND REASONABLE RATES

1. Facilities. Every public utility shall furnish safe, reasonable and adequate facilities and service.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Rates. The rate, toll or charge, or any joint rate made, exacted, demanded or collected by any public utility for production, transmission, delivery or furnishing of electricity, gas, heat or water; for communications service; or for transportation of persons or property within this State or for any service rendered or to be rendered in connection with any public utility, shall be just and reasonable.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Unreasonable rates prohibited. Every unjust or unreasonable charge for public utility service is prohibited and declared unlawful.

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Determining rates. In determining just and reasonable rates, the commission:

A. Shall provide such revenues to the utility as may be required to perform its public service and to attract necessary capital on just and reasonable terms; and [1987, c. 141, Pt. A, §6 (NEW) .]

B. Shall, to a level within the commission's discretion, consider whether the utility is operating as efficiently as possible and is utilizing sound management practices, including the treatment in rates of executive compensation. [1993, c. 506, §1 (AMD).]

[1993, c. 506, §1 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 377, (AMD). 1993, c. 506, §1 (AMD).

§302. LIMITATIONS ON RATES

The following expenses, whether paid directly or indirectly, through reimbursement or otherwise, incurred by a public utility shall not be included or incorporated in operating expenses: [1987, c. 141, Pt. A, §6 (NEW).]

1. Contributions to political groups or candidates. Contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or elections.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§302-A. RULES GOVERNING POLITICAL ACTIVITIES, PROMOTIONAL ADVERTISING AND INSTITUTIONAL ADVERTISING

Rules adopted by the commission concerning promotional advertising; promotional allowances, including, but not limited to, the granting of promotional rebates or credits; advertising to promote corporate image or goodwill; or political activities by public utilities are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules on these matters in effect on the effective date of this section remain in effect and do not require legislative approval but any changes to such rules are subject to review and approval in accordance with Title 5, chapter 375, subchapter 2-A. [2005, c. 204, §1 (NEW).]

SECTION HISTORY

2005, c. 204, §1 (NEW).

§303. VALUATION OF PROPERTY FOR FIXING RATES

In determining just and reasonable rates, tolls and charges, the commission shall fix a reasonable value upon all the property of a public utility and upon an electric plant to the extent paid for by the utility on the premises of any of its customers, which is used or required to be used in its service to the public within the State and a fair return on that property. In fixing a reasonable value, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use and the prudent acquisition cost to the utility, less depreciation on each, and any other material and relevant factors or evidence, but the other factors shall not include current value. In making a valuation, the commission may consult reports, records or other information available to it in the office of any state office or board. [1987, c. 613, §2 (AMD).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 613, §2 (AMD).

§304. FILING OF SCHEDULES OF RATES, TERMS AND CONDITIONS

Every public utility shall file with the commission, within a time to be fixed by the commission, schedules which shall be open to public inspection. The schedules shall show all rates, tolls and charges which the utility has established and which are in force at the time for any service performed by it within the State, or for any service in connection with or performed by any public utility controlled or operated by it or in conjunction with it. Every public utility shall file with and as part of its schedules all terms and conditions that in any manner affect the rates charged or to be charged for any service. [1987, c. 141, Pt. A, §6 (NEW).]

Public utility schedules which were formerly designated as rules shall be designated as terms and conditions. All such schedules to be filed with the commission shall be designated as terms and conditions. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§305. PUBLIC INSPECTION OF SCHEDULES

A copy of as much of the schedules as the commission determines necessary for the use of the public shall be printed in plain type and kept on file in every office of the public utility which is open to the public and where payments are made by the consumers, under such rules as the commission may prescribe. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§306. SCHEDULE OF JOINT RATES

A schedule of joint rates or charges that is or may be in force between 2 or more public utilities shall be printed and filed with the commission and made open to the public in accordance with the provisions of this chapter. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§307. CHANGES IN SCHEDULES; NOTICE

No change may be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes must be plainly indicated upon existing schedules by filing new schedules in lieu of them 30 days prior to the time they are to take effect. The commission may, for good cause shown, allow changes upon less than the notice specified or modify the requirements of this section and section 308 in respect to publishing, posting and filing of schedules, either in particular instances or by rule applicable to special or peculiar circumstances or conditions. [1995, c. 254, §1 (AMD).]

Without the approval of the commission, no utility may file a schedule or schedules for a general increase in rates pursuant to this section within one year of a prior filing for a general increase in rates pursuant to this section, unless the proceeding initiated by a prior filing was terminated without a final determination of the utility's revenue requirement. This requirement does not prevent any utility, at any time, from notifying the commission in advance, either voluntarily or in accordance with a commission requirement under this section, of its plans to file a general increase in rates. Nothing in this section may be construed to limit any utility's right, at any time, to petition pursuant to section 1322 for temporary rate relief. For the purpose of this paragraph, a "final determination of the utility's revenue requirement" means a decision on the merits of the utility's request after consideration of at least the utility's direct case in support of its request. The commission shall decide whether a final determination has been made in any specific case. [1987, c. 141, Pt. A, §6 (NEW).]

For the purposes of this section, a "general increase in rates" means any change in the rates, tolls and charges of the public utility, the effect of which is to increase the annual operating revenues of a public utility by more than 1%, provided that this term does not include a rate change made for the sole purpose of implementing a fuel cost adjustment rate, pursuant to section 4703 or a rate change made for the sole purpose of implementing an energy conservation adjustment rate, pursuant to section 3154. [1999, c. 398, Pt. A, §13 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF).]

The commission may, in its discretion, require the filing of information relating to the changes to be filed in a general increase in rates at the same time as the schedules are filed. The commission may require utilities, whose gross revenues exceed \$5,000,000 annually, to notify the commission, not more than 2 months in advance of filing a general increase in rates under this section, that such a filing is planned and to disclose the approximate amount of the increase, a general statement of the major issues that might be presented and the approximate rate of return the utility would be seeking. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1995, c. 254, §1 (AMD). 1999, c. 398, §A13 (AMD). 1999, c. 398, §§A104, 105 (AFF).

§307-A. EXEMPTION FOR CERTAIN TELEPHONE UTILITIES (REPEALED)

SECTION HISTORY

1997, c. 276, §1 (NEW). 1997, c. 276, §4 (AFF). 2001, c. 137, §3 (AMD). 2011, c. 623, Pt. C, §1 (RP).

§308. FILING OF NEW SCHEDULES

Copies of all new schedules shall be filed in every office of a public utility where payments are made by customers 30 days prior to the time they are to take effect, unless the commission prescribes less time as provided in section 307. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§309. ADHERENCE TO RATE SCHEDULES; CHANGE IN FORM OF SCHEDULES

1. Adherence to schedules. Except as otherwise provided in section 703, it is unlawful for any public utility to charge, demand, collect or receive, for any service performed by it within the State or for any service in connection with that performance, a greater or lesser compensation than is specified in such printed schedules as may at the time be in force, or to demand, collect or receive any rate, toll or charge not specified in the schedules. The rates, tolls and charges named in the schedule are the lawful rates, tolls and charges until they are changed as provided in this Title.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Exception. Notwithstanding subsection 1, when a public utility changes its rates, tolls or charges pursuant to any provision of this Title, the commission may for billing purposes, order that the change be applied to some or all service reflected in meter readings on or after the effective date of the change, or to such other period as it determines just and reasonable.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Form of schedules. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as the commission finds to be expedient.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§310. INVESTIGATION OF PROPOSED CHANGES IN RATES OF PUBLIC UTILITIES; SUSPENSION PENDING INVESTIGATION

1. Investigation of proposed rate changes. When the commission receives notice of any change proposed to be made in a schedule of rates filed with the commission under the provisions of law, it may at any time before the effective date of the change, either upon complaint or upon its own motion and after reasonable notice, hold a public hearing and make investigation as to the propriety of the proposed change. The hearing shall be held in accordance with section 1304. At any such hearing involving any change, the burden of proof to show that the change is just and reasonable is upon the public utility. After a hearing and investigation, the commission may make an order with reference to any new rate, joint rate, rental, toll, classification, charge, term, condition or form of contract or agreement proposed as would be proper in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation. In implementing the order, the commission shall assure rate design stability.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Suspension pending investigation. Pending an investigation and order, the commission may at any time within the period preceding the effective date of the schedule suspend the operation of the schedule or any part of it, by filing with the schedule and delivering to the public utility affected a statement of its reasons for the suspension. The suspension shall not be for a longer period than 3 months from the effective date of the order of suspension, but if the investigation can not be concluded within a period of 3 months, the commission may in its discretion extend the time of suspension for 5 additional months.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Exception: Municipal and quasi-municipal water utilities and consumer-owned transmission and distribution utilities. This section does not apply to:

A. Municipal or quasi-municipal corporations that are water utilities within the definition of section 102, any provisions in any charter notwithstanding, and that elect to proceed pursuant to the terms of section 6104 or 6104-A, unless by the express terms of section 6104 or 6104-A the provisions of this section are made applicable to those corporations; [2009, c. 237, §1 (AMD) .]

A-1. Municipal or quasi-municipal corporations that are water utilities within the definition of section 102, any provisions in any charter notwithstanding, and that file a change in a schedule pursuant to section 307 that changes rates, tolls or charges for service other than the provision of water, only if the cumulative revenue impact of all such changes that become effective within any consecutive 12-month period does not exceed 1% of the utility's total annual revenue; or [2007, c. 127, §1 (NEW) .]

B. Consumer-owned transmission and distribution utilities organized in accordance with chapter 35, unless by the express terms of chapter 35 the provisions of this section are made applicable to those districts. [1999, c. 398, Pt. A, §14 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

[2009, c. 237, §1 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 398, §A14 (AMD). 1999, c. 398, §§A104,105 (AFF). 2007, c. 127, §1 (AMD). 2009, c. 237, §1 (AMD).

§311. COMPREHENSIVE CLASSIFICATION OF SERVICE

The commission shall provide for a comprehensive classification of service for each public utility. The classification may take into account the quantity used, the time when used, the purpose for which used and any other reasonable consideration. Each public utility shall conform its schedules of rates, tolls and charges to the classification. [1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§312. TEMPORARY RATES DURING RATE PROCEEDING

During any proceeding initiated by a public utility by a filing pursuant to section 307 or 1302, the commission may temporarily approve any undisputed amounts of a requested rate increase or rate decrease. If the parties are unable to agree on an undisputed amount, any party, at any time after the cross-examination of the utility's direct case has been conducted and all parties have filed their direct cases, may request the commission to require the parties to provide a written statement of those issues that are being contested and an estimated dollar value of the extent of the disagreement between the utility and the other party on that issue. The commission, after examining the statements of issues presented, may determine an amount which is undisputed. The commission may include in the undisputed amount the amount put in question by any party other than the utility, if the commission determines that that party has no possibility of ultimately prevailing

on that issue. The amounts temporarily approved shall be filed by the utility as a temporary schedule which shall be effective from the date of approval of the temporary schedule until the issuance of the final order in section 307 proceeding. [1987, c. 141, Pt. A, §6 (NEW).]

The utility shall notify each customer of the rate increase allowed under this section. The notice shall be mailed with the first bill mailed to each customer after the date of approval and shall state the following: [1987, c. 141, Pt. A, §6 (NEW).]

1. Amount of increase. The amount of increase allowed under this section;

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Statement. The fact that that rate increase allowed under this section was undisputed or that although disputed it was approved by the commission, subject to partial or full refund if the commission in its final order approves an amount less than the increase allowed by the temporary rate schedule;

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Amount of remaining disputed portion. The amount of the remaining disputed portion of the requested rate increase; and

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Disputed portion will be decided. If available, an estimate of the date when the disputed portion will be decided.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§313. SUBMETERING PERMITTED IN CAMPGROUNDS

A campground owner or operator may submeter electric service to campground sites within the campground in accordance with this section, as long as electric service is not provided to any particular submeter user for a period greater than 6 consecutive months. [1995, c. 129, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Campground" means a recreational camping park where fees are charged for the recreational use of the park and that can accommodate 10 or more temporary living quarters, including but not limited to tents, recreational vehicles, trailers, vans, pickup campers and motor homes. [1995, c. 129, §1 (NEW) .]

B. "Submeter user" means any person using a campground site on which a campground owner or operator has installed a submeter. [1995, c. 129, §1 (NEW) .]

[1995, c. 129, §1 (NEW) .]

2. Charges. A campground owner or operator may charge a submeter user only for kilowatt hours used by that submeter user. The charge that a campground owner or operator may charge a submeter user for electric service may not exceed the kilowatt usage of the submeter user multiplied by the combined rate per kilowatt hour that the campground owner or operator is charged by the transmission and distribution utility and competitive electricity provider.

[1999, c. 398, Pt. A, §15 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

3. Nontaxable event. The collection of charges under this section for submetered electric service is not a sale for the purposes of taxation.

[1995, c. 129, §1 (NEW) .]

4. Interpretation; not resale. A submeter user is not a customer of the transmission and distribution utility or competitive electricity provider providing service to the master-metered campground owner or operator. For purposes of this Title, a submeter user is not a customer of the campground owner or operator. Nothing in this section permits the resale of electricity by a campground owner or operator.

[1999, c. 398, Pt. A, §15 (AMD); 1999, c. 398, Pt. A, §§104, 105 (AFF) .]

SECTION HISTORY

1995, c. 129, §1 (NEW). 1999, c. 398, §A15 (AMD). 1999, c. 398, §§A104,105 (AFF) .

§314. PRIVATE LINE EXTENSIONS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Line" means an electric distribution line, including poles and other related structures. [2001, c. 201, §1 (NEW) .]

[2001, c. 201, §1 (NEW) .]

2. Standards for private lines. The commission shall by rule establish standards for the construction of a line by a person other than a transmission and distribution utility. The rules:

A. Must establish standards for the construction of lines. The commission may establish different standards in different transmission and distribution utility territories. The standards must be the same as the standards that would apply if the transmission and distribution utility in whose territory the line is constructed built the line unless there are compelling public safety reasons for applying different standards. If these standards and any other reasonable conditions established by the commission are met, a transmission and distribution utility may not refuse to connect the line to the utility's system or to deliver energy over the line; [2001, c. 201, §1 (NEW) .]

B. Must establish terms and conditions for transferring the ownership of a line to a transmission and distribution utility. The rules may establish a requirement that certain types of lines, lines under certain conditions, or lines in certain locations, such as lines located in the public way, must be transferred to the transmission and distribution utility; and [2001, c. 201, §1 (NEW) .]

C. May require that a person that is not a transmission and distribution utility that constructs a line meet minimum qualifications established or approved by the commission. [2001, c. 201, §1 (NEW) .]

[2001, c. 201, §1 (NEW) .]

3. Apportionment of costs of line extensions. The commission shall adopt rules establishing requirements for apportioning the costs of a single-phase overhead line extension among persons who take service through the line after the construction of the line. The commission may provide for exemptions from the apportionment methodology established by the commission for any transmission and distribution utility that petitions the commission for an exemption and establishes to the satisfaction of the commission that the transmission and distribution utility's apportionment methodology adequately serves the public interest and balances competing interests of customers.

[2001, c. 201, §1 (NEW) .]

4. Lines constructed in the public way. Nothing in this section or rules adopted under this section limits the application of section 2305-B to any line constructed in a public way.

[2001, c. 1, §44 (COR) .]

5. Submission of rules. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature for review no later than February 1, 2002.

[2001, c. 201, §1 (NEW) .]

SECTION HISTORY

RR 2001, c. 1, §44 (COR). 2001, c. 201, §1 (NEW).

§315. TRANSMISSION AND DISTRIBUTION UTILITY LINE EXTENSION CONSTRUCTION

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Line" has the same meaning as in section 314, subsection 1, paragraph A. [2011, c. 484, §1 (NEW) .]

B. "Make-ready work" means work necessary to connect a line extension to existing utility infrastructure. [2011, c. 484, §1 (NEW) .]

[2011, c. 484, §1 (NEW) .]

2. Line extension charge. Amounts charged by a transmission and distribution utility serving more than 500,000 retail customers for a line extension are governed by this subsection.

A. Through a proceeding or rulemaking and in accordance with this section and section 314, the commission shall establish the method to be used by a transmission and distribution utility serving more than 500,000 retail customers for line extension pricing. The method may include the amount to be charged per foot for the completion of a line extension. [2011, c. 484, §1 (NEW) .]

B. Revenue received by a transmission and distribution utility serving more than 500,000 retail customers from a telephone utility may not be used to offset the total cost of or amount charged to a customer for a line extension. [2011, c. 484, §1 (NEW) .]

C. A transmission and distribution utility serving more than 500,000 retail customers shall report annually to the commission, on a date determined by the commission, the total amount charged to customers for line extensions and the total actual costs to the transmission and distribution utility serving more than 500,000 retail customers to complete those line extensions for a prior 12-month period determined by the commission. [2011, c. 484, §1 (NEW) .]

D. If a report pursuant to paragraph C demonstrates that charges to customers for line extensions are less than 95% of total actual costs or greater than 105% of total actual costs during the reporting period, the commission, within 30 days of the date of the filing of the report, shall open an investigation to determine the appropriate adjustments to be made to the method used by the transmission and distribution utility pursuant to paragraph A to establish the amount charged to a customer for a line extension so that the total amount charged to customers is no less than 95% and no more than 105% of total actual costs for the line extensions. [2011, c. 484, §1 (NEW) .]

[2011, c. 484, §1 (NEW) .]

3. Cost recovery. Any cost associated with construction of a line extension that is not recovered by a transmission and distribution utility serving more than 500,000 retail customers through the charges established in accordance with subsection 2 must be borne by the utility and may not be recovered in rates.

[2011, c. 484, §1 (NEW) .]

4. Fees for make-ready work. A transmission and distribution utility serving more than 500,000 retail customers may charge a customer taking polyphase service the actual costs of make-ready work associated with that customer's service. A transmission and distribution utility serving more than 500,000 retail customers may not charge a customer taking single-phase service for make-ready work associated with that customer's service. A transmission and distribution utility serving more than 500,000 retail customers may recover costs associated with such single-phase service make-ready work in rates.

[2011, c. 484, §1 (NEW) .]

5. Rules. The commission shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 484, §1 (NEW) .]

Nothing in this section may be construed to limit the activities of a transmission and distribution utility serving 500,000 or fewer retail customers. [2011, c. 484, §1 (NEW) .]

SECTION HISTORY

2011, c. 484, §1 (NEW) .

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